

*United States District Court***FILED**NORTHERN
UNITED STATES OF AMERICA

DISTRICT OF CALIFORNIA

e-FILING

V.
NOGUEDA, FIDEL CARBAJAL

2006 NOV 20 A 11:48

CASE NUMBER:

CRIMINAL COMPLAINTRICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

(Name and Address of Defendant)

06 70755

RS

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than September 01, 2006 in Santa Clara County in the Northern District of California defendant(s) did, (Track Statutory Language of Offense)

Unlawfully re-enter and was found in the United States after deportation, without the permission of the Attorney General or the Secretary of the Homeland Security.

in violation of Title 8 United States Code, Section(s) 1326.

I further state that I am a(n) Special Agent and that this complaint is based on the following facts:-

SEE ATTACHED AFFIDAVIT

PENALTIES: \$250,000.00 fine, twenty years imprisonment and \$100.00 special assessment fee and

a Term of Supervised Release up to three years.

Requested bail: Issue no bail warrant / government will request detention.

APPROVED AS TO FORM:

ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: Yes No

Signature of Complainant

Sworn to before me and subscribed in my presence,

11/20/ 2006
Date

at San Jose, California
City and State

Richard Seeborg
United States Magistrate Judge
Name & Title of Judicial Officer

Signature of Judicial Officer

AFFIDAVIT OF SPECIAL AGENT PERCY ORUM

I am a Special Agent of the United States Department of Homeland Security, Immigration and Customs Enforcement (“ICE”), formerly known as the United States Immigration and Naturalization Service (“INS”). The departmental change from INS to ICE became effective on March 01, 2003, pursuant to Executive Orders of the Homeland Security Act. I have been employed with INS/ICE since March 05, 1980. I am currently assigned to the Alien Criminal Apprehension Program (“ACAP”) Unit of the San Jose Sub-office. In such capacity, I have reviewed the official file relating to the below named individual, which attests to the following:

- (1) NOGUEDA, FIDEL CARBAJAL (“NOGUEDA”) is a 33-year-old male native and citizen of Mexico, who has used three (03) aliases and two (02) dates of birth in the past.
- (2) NOGUEDA, has been assigned one (1) Alien Registration number of A092 178 270, FBI number of: 404713HB3, Santa Clara County Personal File Number of DMT490, and a California Criminal Information Index number of: A12010724.
- (3) On June 11, 2004, NOGUEDA was convicted in the Superior Court of the State of California, in and for the County of Santa Clara, for the offense of POSSESSION OF A CONTROLLED SUBSTANCE FOR SALE., A FELONY, in violation of Section 11378 of the California Health and Safety Code. This is defined as an aggravated felon under Title 8, United States Code, Section 1101(a)(43)(F).
- (4) A check through ICE’s records shows that NOGUEDA was arrested and deported on one (01) occasion from the United States: on June 28, 2006 at Nogales, Arizona.
- (5) NOGUEDA last entered the United States at or near an unknown place and date after June 28, 2006, by crossing the international border without inspection subsequent to deportation.
- (6) NOGUEDA, on a date unknown but no later than September 01, 2006, at Santa Clara County Jail, Milpitas, California, was found to be unlawfully present in the United States after prior arrest and deportation, without the permission of the Attorney General or the Secretary of the Homeland Security, in violation of Title 8, United States Code, Section 1326.

- (7) On September 01, 2006, NOGUEDA was interviewed by your affiant at the Santa Clara County Jail, Milpitas, California, Northern District of California. During that interview, in Spanish, NOGUEDA was advised of his Miranda rights. NOGUEDA waived his rights and gave a sworn statement. NOGUEDA admitted alienage, prior deportation, and his failure to obtain permission from the Attorney General or the Secretary of the Homeland Security to return to the United States after being deported. Additional information concerning alienage, prior deportation and NOGUEDA's failure to obtain permission from the Attorney General or the Secretary of the Homeland Security to return to the United States after deportation was obtained from NOGUEDA's alien file, ICE, state, FBI, and local checks.
- (8) On September 01, 2006, NOGUEDA provided his right thumb and right index fingerprints with his sworn statement. A latent print examiner at the Santa Clara County Sheriff's Department compared those fingerprints with NOGUEDA's fingerprints on the executed Warrant of Deportation and his Santa Clara County Booking fingerprints. The latent print examiner determined that the fingerprints were identical and related to NOGUEDA.
- (9) There is no record in the official file of the United States Department of Homeland Security, Immigration and Customs Enforcement that NOGUEDA ever applied to the Attorney General or the Secretary of the Homeland Security to reenter the United States after deportation.
- (10) NOGUEDA is currently in custody at the Santa Clara County Jail, Milpitas, California on states charges with a pending release date.

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(11) On the basis of the above-described information, there is probable cause to believes that NOGUEDA illegally entered the United States, in violation of Title 8, United States Code, Section 1326. NOGUEDA was found in the United States after having been deported, and he had not sought permission from the United States Attorney General or the Secretary of the Homeland Security to re-enter the United States.

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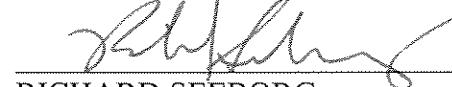
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Percy Orum
Special Agent
U.S. Immigration and Customs
Enforcement

Subscribed and sworn to before me this 20th day of November, 2006.



RICHARD SEEBORG
UNITED STATES MAGISTRATE
JUDGE